

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-165-E – ORDER NO. 2009-527
AUGUST 6, 2009

IN RE:

Application of Southern Power Company)
d/b/a Southern Power Company-South)
Carolina for a Certificate of Environmental)
Compatibility and Public Convenience and)
Necessity for the Construction and Operation)
Of a New 230-kV Transmission Line in)
Cherokee County, South Carolina)
_____)

ORDER APPROVING
CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC
CONVENIENCE AND NECESSITY

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the Application of Southern Power Company d/b/a Southern Power Company – South Carolina (“Southern Power”) for a Certificate of Environmental Compatibility and Public Convenience and Necessity for the construction, operation and maintenance of a new 230-kV transmission line in Cherokee County, South Carolina.

This matter was initiated on April 15, 2009 when Southern Power filed an Application for a Certificate of Environmental Compatibility and Public Convenience and Necessity including the direct pre-filed testimony of Robert A. Schaffeld. The Commission established this docket pursuant to the provisions in S.C. Ann. § 58-33-10 *et. seq.* (1976 and Supp. 2008) (“the Siting Act”) at the request of Southern Power.

Southern Power is organized under the laws of the State of Delaware, and its principal office is in Atlanta, Georgia. Southern Power owns, builds, acquires and operates generating stations and markets electricity in the competitive wholesale power supply business in the

southeastern part of the United States. Southern Power has 7,700 MW of generating capacity from its plants in Alabama, Georgia, Florida and North Carolina. Southern Power's electricity output is marketed to wholesale customers in the region. Southern Power is a wholly-owned, first-tier subsidiary of The Southern Company, and is authorized to transact business in South Carolina as Southern Power d/b/a Southern Power Company – South Carolina.

The Office of Regulatory Staff ("ORS") and Southern Power are parties of record in this matter. Additional parties included pursuant to the Siting Act are: the South Carolina Department of Health and Environmental Control; the South Carolina Department of Natural Resources; and the South Carolina Department of Parks, Recreation and Tourism. Service of documents was also made to The Honorable David Hogue, Blacksburg Mayor; The Honorable L. Hoke Parris, Chairman, Cherokee County Council; Trudy Martin, Blacksburg Town Administrator; and Rick Peterson, Cherokee County Safety/Emergency Management Director. There were no intervenors outside the statutory parties and those to whom service of documents was made available.

By letter dated April 23, 2009, the Commission's Docketing Department issued scheduling directions to all Parties establishing the dates for Parties to pre-file testimony and exhibits in this case.

On April 24, 2009, the Commission established a hearing date of July 1, 2009, and a date of May 25, 2009, for all petitions of intervenors and notice of filing to be completed.

By letter dated May 4, 2009, Southern Power complied with the publication of Notice of Hearing.

On June 3, 2009, testimony was submitted for ORS by witness A. Randy Watts.

On June 25, 2009 ORS and Southern Power filed a Stipulation without objection from the other statutory parties.

The Commission conducted a formal hearing in this matter on July 1, 2009 beginning at 10:30 a.m. in the hearing room of the Commission, with The Honorable Elizabeth Fleming, presiding. W. Edward Poe, Jr., Esquire, and Faye A. Flowers, Esquire, represented Southern Power and Shannon Bowyer Hudson, Esquire, represented ORS. No other party was in attendance.

At the opening of the hearing, Ms. Shannon Bowyer Hudson, counsel for ORS, moved the Stipulation between ORS and Southern Power into the record. Ms. Hudson stated the Stipulation was provided to all parties on the service list and that no objection was made to its contents. The Stipulation was established as Hearing Exhibit 1.

The Stipulation set forth that:

1. ORS did not oppose Southern Power's Application for a Certificate of Environmental Compatibility and Public Convenience and Necessity for the construction and operation of a new 230-kV transmission line to run less than one mile in Cherokee County, South Carolina;
2. Southern Power agreed to notify ORS and the Commission once all necessary rights-of-way of the affected landowners were secured and provide proof that such rights had been obtained;
3. Southern Power agreed to follow all South Carolina, Commission, and local government regulations and laws arising from matters set forth in the Application;

4. Southern Power agreed to notify ORS and the Commission of any significant modifications to the construction schedule or plant design;
5. Southern Power agreed to notify ORS and the Commission when the facility begins commercial operation and of any changes to the planned commercial operation date.

Southern Power witness Schaffeld testified the generating facility will be located in Cleveland County, NC and interconnected to the transmission grid at Duke Energy Carolinas' Ripp substation located in northeastern Cherokee County, South Carolina via a 230-kV transmission line approximately 1.8 miles long. The transmission line will traverse less than one mile in South Carolina. No other portion of the facility will be located in South Carolina. Schaffeld testified the facility is needed because Southern Power assessed a need in North Carolina for additional peaking capacity. Testimony during the hearing stated that Southern Power's closest interconnection point is at the Ripp substation in South Carolina. Schaffeld testified that it is not economically feasible to build the facility in South Carolina due to several factors, including access to fuel supplies and proximity to the load. The generating facility's location in North Carolina allows for close proximity to a fuel supply line. Schaffeld testified a comparable location for the facility was not available in South Carolina. Schaffeld testified that 75% of the facility's planned initial output is committed under long-term power purchase agreements with North Carolina Municipal Power Agency Number 1 and North Carolina Electric Membership Corporation. The remaining 25% is available and could be purchased to serve South Carolina customers. Schaffeld testified the facility will increase the reliability of the transmission system by improving and enhancing the transmission line network in South Carolina and providing additional peaking capacity. In addition, Schaffeld testified that the

facility will generate both temporary and permanent jobs, some of which will likely be held by South Carolina residents due to the facility's closeness to South Carolina.

Schaffeld testified the proposed transmission line will not have any significant environmental impact along its 0.9 mile route in northeastern Cherokee County. Schaffeld based this conclusion on the following facts. First, much of the line in South Carolina will parallel an existing Duke Energy Carolinas 230-kV transmission line on steel lattice towers on a 150-foot-wide right-of-way. Next, a significant portion of the 230-kV line will be constructed near a local quarry where rock mining operations have been conducted for years. Third, the line and 125-foot right-of-way are in a remote, unincorporated, rural area which crosses only four landowners, and rights-of-way have been obtained from three of these owners, with negotiations underway with the fourth owner. The Company is to furnish copies of the rights-of-way to the Commission and ORS when the rights-of-way are finally obtained. Fourth, the bundled electrical conductors will be placed on H frame steel and concrete pole structures approximately 500 to 800 feet apart, depending on topography, with a conductor height of 90 to 140 feet above ground. Next, the right-of-way for the line is not located in proximity to any houses, churches, commercial buildings or structures, so its visual impact will be minimal. Additionally, no biological, botanical, cultural, archaeological, wetlands, threatened or endangered plant or animal species, wildlife or other significant natural or human resources will be affected by imposition of the right-of-way or construction and operation of the transmission line. Further, the right-of-way area will be maintained by tree clearing, mowing and vegetation control; however, agricultural and other compatible uses will be permitted within the right-of-way. There are no projected impacts to wetlands along the transmission line route. Herbicide will be used

sparingly to reduce the potential that it might contaminate any aquatic resources. Finally, the route selected has minimal overall social and environmental impact which is supported by an environmental report completed by AECOM, Inc., a copy of which is an exhibit to the Application.

ORS witness A. Randy Watts also testified. Watts, Program Manager of ORS's Electric Department, provided the results of ORS's review of the Company's Application. Watts testified as to his understanding of the basis for the need for the proposed transmission line, how the line would serve the interests of system economy and reliability, and as to the fact that the Company affirmed that it would conform to all applicable state and local laws and regulations as they pertain to the proposed transmission line facility. Watts also commented on how this project would aid in economic development and the attraction and retention of jobs in South Carolina.

The Commission has considered the testimony of the witnesses and the other evidence of record in this proceeding, including the Stipulation. Based on this factual record, the Commission finds in accordance with S.C.Code Ann. § 58-33-160 of the Siting Act that Southern Power has demonstrated that: (a) the proposed 230 kV transmission line, which will tie Southern Power's proposed Cleveland County, North Carolina, generating facility to the transmission system, will serve the need for additional peaking power in the SERC Reliability Corporation ("SERC") region¹; (b) the probable environmental impact of the proposed project will be minimal; (c) any such minimal impact is justified, considering the state of available technology and the nature and economics of the various alternatives and other pertinent considerations; (d) the proposed project will serve the interests of system economy and

¹ SERC is a non-profit member-based corporation responsible for promoting and improving the reliability, adequacy, and critical infrastructure of the bulk power systems in all or portions of 16 central and southeastern states.

reliability; and (e) there is reasonable assurance that the proposed facility will conform to applicable State and local laws and regulations. Therefore, the Commission concludes that the public convenience and necessity require the construction of the facility and that adoption of the Stipulation is in the best interest of the Parties and the State of South Carolina.

NOW THEREFORE, based upon the foregoing, IT IS HEREBY DECLARED AND ORDERED THAT:

1. Southern Power is hereby granted a Certificate of Environmental Compatibility and Public Convenience and Necessity for the construction, operation and maintenance of a new 230-kV transmission line in Cherokee County, South Carolina.
2. Southern Power has shown the basis of the need for the facility in providing peaking capacity in North Carolina where the generating facility is being constructed. The facility is being interconnected at Duke Energy Carolinas' Ripp substation in Cherokee County, South Carolina. In addition, Southern Power has entered into firm contracts to supply approximately 75% of the generating facility's capacity. The remaining 25% is being marketed and could be used to supply power to South Carolinians.
3. Southern Power has shown the nature of the probable environmental impact is minimal and the minimal impact is justified. Southern Power selected the least impactful route. Only four landowners are affected and the only portion of the project to be located in South Carolina is the transmission line which will traverse less than one mile in South Carolina. In addition, much of the line in South

Carolina will parallel an existing transmission line owned by Duke Energy Carolinas.

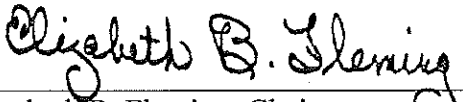
4. Southern Power has shown the facilities will serve the interests of system economy and reliability by improving and enhancing the major transmission line network in South Carolina and by providing reliable peaking power.
5. Southern Power will notify ORS and the Commission once all necessary rights-of-way from the affected landowners are secured and provide proof that such rights have been obtained.
6. Southern Power will follow all South Carolina, Commission, and local government regulations and laws arising from matters set forth in the Application;
7. Public convenience and necessity require the construction of the 0.9 mile 230-kV transmission line in Cherokee County, South Carolina.
8. Southern Power will notify ORS and the Commission of any significant modifications to the construction schedule or plant design.
9. Southern Power will notify ORS and the Commission when the facility begins commercial operation and of any changes to the planned commercial operation date.
10. The Stipulation attached hereto as Order Exhibit No. 1, which was accepted into the record without objection at the hearing, is incorporated into and made a part of this Order. Further, the Stipulation constitutes a reasonable resolution to this proceeding and is hereby adopted as such.

AUGUST 6, 2009

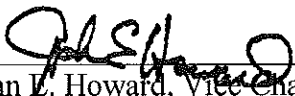
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11. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Elizabeth B. Fleming, Chairman

ATTEST:


John L. Howard, Vice Chairman

(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-165-E

June 25, 2009

IN RE:	Application of Southern Power Company)	
	d/b/a Southern Power Company-South)	STIPULATION
	Carolina for a Certificate of Environmental)	
	Compatibility and Public Convenience and)	
	Necessity for the Construction and Operation)	
	of a New 230-kV Transmission Line in)	
	Cherokee County, South Carolina)	

This Stipulation is made by and between the South Carolina Office of Regulatory Staff ("ORS") and the Southern Power Company d/b/a Southern Power Company-South Carolina ("Southern Company") (collectively referred to as the "Parties" or sometimes individually as a "Party").

WHEREAS, the above-captioned proceeding has been established by the Public Service Commission of South Carolina ("Commission") pursuant to the provisions in S.C. Code Ann. §58-33-10 *et. seq.* (1976 and Supp. 2008) ("the Siting Act") at the request of the Southern Company, and the Parties to this Stipulation are parties of record in the above-captioned docket. The other parties of record in the above-captioned proceeding have been contacted and have not expressed opposition to this Stipulation;

WHEREAS, the Parties have varying legal positions regarding the issues in this case;

WHEREAS, the Parties have engaged in discussions to determine if a Stipulation would be in their best interest;

WHEREAS, following these discussions the Parties have each determined that their interest and the public interest would be best served by reaching an agreement on matters set forth in Southern Company's Application in the above-captioned case under the terms and conditions set forth below:

1. The Parties agree to stipulate into the record before the Commission the direct testimony of the following witnesses without objection, change, amendment or cross-examination with the exception of changes comparable to that which would be presented via an errata sheet or through a witness noting a correction.

- A. Southern Company witness: Robert A. Schaffeld; and
- B. ORS witness: Randy Watts (Revised Direct Testimony).

2. As a compromise, the following is adopted, accepted, and acknowledged as the agreement of the Parties:

- A. ORS will not oppose Southern Company's Application for a Certificate of Environmental Compatibility and Public Convenience and Necessity for the Construction and Operation of a new 230-kv transmission line to run less than one mile in Cherokee County, South Carolina;
- B. Southern Company agrees to notify ORS and the Commission once all necessary rights-of-way of the affected landowners are secured and provide proof that such rights have been obtained;
- C. Southern Company agrees to follow all South Carolina, Commission and local government regulations and laws arising from matters set forth in the Application;
- D. Southern Company will notify ORS and the Commission of any significant modifications to the construction schedule or plant design; and,
- E. Southern Company will notify ORS and the Commission when the facility begins commercial operation and of any changes to the planned commercial operation date.

3. The Parties agree this Stipulation is reasonable, in the public interest and in accordance with law and regulatory policy.

4. Further, ORS is charged with the duty to represent the public interest of South Carolina pursuant to S.C. Code §58-4-10(B) (Supp. 2008). S.C. Code §58-4-10(B)(1) through (3) reads in part as follows:

“... ‘public interest’ means a balancing of the following:

- (1) Concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
- (2) Economic development and job attraction and retention in South Carolina; and
- (3) Preservation of the financial integrity of the State’s public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.”

5. The Parties agree to cooperate in good faith with one another in recommending to the Commission that this Stipulation be accepted and approved by the Commission as a fair, reasonable and full resolution in the above-captioned proceeding. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Stipulation and the terms and conditions contained herein.

6. This written Stipulation contains the complete agreement of the Parties. There are no other terms and conditions to which the Parties have agreed. The Parties agree that this Stipulation will not constrain, inhibit or impair their arguments or positions held in future proceedings, nor will the Stipulation or any of the matters agreed to in it be used as evidence or precedent in any future proceeding. If the Commission should decline to approve the Stipulation in its entirety, then any Party desiring to do so may withdraw from the Stipulation without penalty.

7. This Stipulation shall be interpreted according to South Carolina law. The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Stipulation by authorizing its counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and e-mail signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the various signature pages combined with the body of the document constituting an original and provable copy of this Stipulation.

WE AGREE:

Representing and binding the South Carolina Office of Regulatory Staff

Shannon Bowyer Hudson

Shannon Bowyer Hudson, Esquire

South Carolina Office of Regulatory Staff

1401 Main Street, Suite 900

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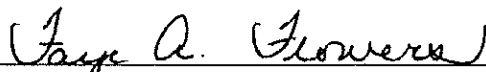
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WE AGREE:

**Representing and binding the Southern Power Company d/b/a Southern Power Company-
South Carolina**



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